

|                                |   |                       |
|--------------------------------|---|-----------------------|
| ANDRE SMITH-LOVEJOY,           | ) | 3:12-cv-00213-ECR-WGC |
|                                | ) |                       |
| Plaintiff,                     | ) | <b><u>Order</u></b>   |
|                                | ) |                       |
| vs.                            | ) |                       |
|                                | ) |                       |
| ELDORADO HOTEL & CASINO; HOTEL | ) |                       |
| MANAGER,                       | ) |                       |
|                                | ) |                       |
| Defendants.                    | ) |                       |
|                                | ) |                       |
|                                | ) |                       |

The Magistrate Judge's Report and Recommendation is well taken and approved. Plaintiff's application indicates that he is able to afford the \$350.00 filing fee, and, in any event, Plaintiff has proceeded to file the Complaint (#6). Accordingly, Plaintiff's Motion to Proceed in forma pauperis (#1) must be denied.

Furthermore, the Complaint must be dismissed with prejudice. A suit brought pursuant to 42 U.S.C. § 1983 can only be brought against a state actor, *Wood v. Ostrader*, 879 F.2d 583, 587 (9th Cir. 1989),

1 and section 1983 does not provide a cause of action for violations of  
2 state law. Galen v. Cty. of Los Angeles, 477 F.3d 652, 662 (9th Cir.  
3 2007). Defendant is not a state actor, and Plaintiff does not allege  
4 a constitutional violation, but violations of state law. We also  
5 dismiss this suit with prejudice because we find that it is legally  
6 frivolous, as was Plaintiff's prior case that we dismissed as  
7 frivolous, Smith-Lovejoy v. Physician's Mutual Insurance, 3:12-cv-  
8 00011-ECR-VPC.

9  
10 **IT IS, THEREFORE, HEREBY ORDERED** that the Magistrate Judge's  
11 Report and Recommendation (#3) is well taken and is **APPROVED** and  
12 **ADOPTED**.

13 **IT IS FURTHER ORDERED** that Plaintiff's Motion for Leave to  
14 Proceed in forma pauperis (#1) is **DENIED**.

15 **IT IS FURTHER ORDERED** that Plaintiff's Complaint (#6) is  
16 **DISMISSED WITH PREJUDICE**.

17 **IT IS FURTHER ORDERED** that Plaintiff's Motions (##3, 4) are  
18 **DENIED** as moot.

19  
20 The Clerk shall enter judgment accordingly.

21 The Clerk shall not accept any further filings in this matter.  
22  
23

24 DATED: September 25, 2012.

25   
26 UNITED STATES DISTRICT JUDGE